United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	Case No. 4:07cr58
	§	(Judge Schell)
ZACHARY ALLEN BROWN	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 15, 2010, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On October 9, 2008, Defendant was sentenced by the Honorable Richard A. Schell to eighteen months' custody followed by three years of supervised release for the offense of Felon in Possession of a Firearm. On September 25, 2009, Defendant completed his period of imprisonment and began service of his supervised term.

On February 24, 2010, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory condition: defendant shall refrain from any unlawful use of a controlled substance. The petition also alleged additional violations which were dismissed by the Government.

The petition alleges that Defendant committed the following acts with regard to allegation one of the Petition: the Defendant submitted urine specimens that tested positive for marijuana on October 26, 2009, November 23, 2009, December 14, 2009, and January 27, 2010.

Prior to the Government putting on its case, Defendant entered a plea of true to the violation.

The Court recommends that Defendant's supervised release be revoked.   The Court finds the guideline range in this case is six to twelve months.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months with twenty-four (24) months' supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

The Court further recommends the following conditions:

Within 72 hours of release from the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which the defendant is released.

While on supervised release, the defendant shall not commit another federal, state, or local crime, and shall comply with the standard conditions that have been adopted by the Court, and shall comply with the following additional conditions:

The defendant shall pay a special assessment of $100. The special assessment is due immediately, payable by cashier's check or money order, to the United States District Court and forwarded to the United States District Clerk's Office, P.O. Box 570, Tyler, Texas 75710.

The defendant shall provide the probation officer with access to any requested financial information for purposes of monitoring employment.

The defendant shall not illegally possess a controlled substance, and shall refrain from any unlawful use of a controlled substance.

The defendant shall be required to submit to a drug test within 15 days of release on supervised release, and at least two periodic drug tests thereafter, as directed by the probation officer.

The defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

The defendant shall obtain his GED.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 16th day of March, 2010.

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AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE